
From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, June 13, 2014 2:57 PM
To: Sanchez, Rodzandra (COE)
Subject: Richard Pena, PortMiami employee (Outside Employment, Travel Expenses) INQ 14-141

INQ 14-141

From: Centorino, Joseph (COE)
Sent: Friday, June 13, 2014 11:21 AM
To: Pena, Richard (Seaport)
Cc: Diaz-Greco, Gilma M. (COE); Sanchez, Gerald (CAO); Kuryla, Juan (Seaport)
Subject: INQ -Richard Pena, PortMiami employee (Outside Employment, Travel Expenses)

Mr. Pena,

You have inquired regarding whether you may accept a paid trip to Honolulu from Automated Port Solutions, a company owned by a former Port employee, Louis Noriega. The purpose of the trip is for you to assist in a presentation to the Hawaiian Tourist Authority for the possible award of a contract to Automated Port Solutions to develop a custom automated berthing system. Automated Port Solutions is not a county vendor, contactor or service provider, but does have a contract with a Port Contractor, CH2Hill, which has a contract with the Port to provide design services for the networking development of Terminal "H" at PortMiami. You have informed that in your position as Senior Berthing Officer at the Port your duties do not include any oversight or administration of CH2Hill's contract, nor do you have any interaction with CH2Hill, Automated Port Solutions, its employees or owners in your job. You have indicated that your acquaintance with Mr. Noriega derives from the fact that Mr. Noriega is a former Port employee. You have informed also that to your knowledge Mr. Noriega is not a lobbyist with the county, nor does he or his company have any pending contract with the County or any application for any future contract. It is the intent of Mr. Noriega, if he should succeed in obtaining the contract in Hawaii, to revoke his sub-contract with CH2Hill. It is my understanding that your arrangement with Automated Port Solutions has been approved by your supervisors, including the Port Director.

There are two issues presented by this situation: 1)Whether you may accept the paid travel and other incidental expenses from Automated Port Solutions; 2)Whether you may accept outside employment with Automated Port Solutions as a consultant on its application for the Hawaii contract, and, if it is successful perform consultant services for it on the contract itself.

Section 2-11.1(w) would prohibit you from accepting any paid travel or incidental expenses from a county contractor, vendor, service provider, bidder or proposer. Inasmuch as Automated Port Solutions is not a contractor vendor or service provider with the county, but rather with CH2Hill, and it is also not a bidder or proposer on any pending contract, this provision does not prohibit you from accepting the travel expenses. However, the payment of these expenses by Automated does constitute a reportable gift under Section 2-11.1(e)(4), which must be disclosed by filing a proper disclosure form with the Clerk of the Board of County Commissioners.

As I indicated to you on the phone, your prospective employment with Automated Solutions does raise some appearance issues insofar as it involves your acceptance of consultancy work with a sub-contractor at the Port. However, given that you have received approval for this work from Port management, and the fact that you have no interaction whatsoever with either CH2Hill or Automated Port Solutions through your public position, it cannot be said that this outside employment would impair your independence of judgment in the performance of your public duties and, therefore, it would not be prohibited under Section 2-11.1(j). You should also be cognizant that in doing private outside work that is related to the work you do for the county, i.e., designing a customized berthing system, you must avoid any improper use of Port time, facilities, equipment or other public resources in your private consultant

position. To so otherwise could constitute an Exploitation of Official Position in violation of Section 2-11.1(g) of the Ethics Code.

Accordingly, under the conditions and circumstances noted above, you are not prohibited from accepting the trip and consultancy work from Automated Port Solutions.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Pena, Richard (Seaport)
Sent: Thursday, June 12, 2014 4:14 PM
To: Centorino, Joseph (COE)
Subject: Outside Employment Ethics Inquiry for Dade County Seaport Employee Richard Pena
Importance: High

Dear Mr. Centorino

My name is Richard E. Pena, Senior Berthing Officer with the Seaport Department, responsible for all vessel scheduling and port asset allocation for cruise and cargo operations. I am emailing you per your conversation and subsequent request to Mr. Luis Gonzalez, head of Human Resources at the Seaport Department, to provide you with information related to my Outside Employment request. I have been offered a consultancy to Automated Port Solutions, owned by Louis Noriega, the former head of the Information Technology section at PortMiami. Mr. Noriega would like me to assist him as a content specialist based on my expertise as the Senior Berthing Officer at PortMiami. Mr. Noriega has asked me to accompany him to Honolulu, Hawaii this weekend to deliver an oral presentation to the Hawaiiin Tourist Authority in order to potentially be awarded a purchase order to develop a custom automated berthing system. Presently, Mr. Noriega and myself do not have an employment contract nor have I provided any type of service to his company. To be clear, I am not being compensated by Mr. Noriega for this trip and I have not accepted his offer nor would I accept without a ruling from your office. In addition, only if Automated Port Solutions is awarded a contract by the Hawaiiin Tourist Authority, would a consultancy be extended to myself. I am strictly providing my expertise and knowledge of maritime facility logistics and berthing systems.

Presently, Automated Port Solutions, is under contract to PortMiami as a sub-contractor to Contractor CH2Hill in order to provide design services for the networking development of Terminal "H" at PortMiami. I have no communication or relationship with CH2Hill. I was not involved in the bidding process for the project nor would I have any interaction with CH2Hill related to the scope of work in this contract. The "cone of silence" has been lifted ,but as of now, no work order has been submitted for the Terminal "H" project.

Mr. Noriega has stated that if, thru my assistance, Automated Port Solutions is awarded a purchase order to develop an automated berthing system for the Hawaiiin Tourist Authority, he would revoke his sub-consultancy to CH2Hill for the Terminal "H" project to avoid any conflict of interest.

This September, I will have 29 years invested in the FRS system, all at PortMiami. My pension means everything to me and I do not want to do anything to jeopardize my pension or my career. However, I do kindly ask if a determination can be made as quickly as possible so that I can make travel plans with Mr. Noriega to depart tomorrow with a clear conscience or give him enough time to make alternate plans in case that it is deemed unethical for me to be a consultant for him this trip. I sincerely thank you for your consideration, best regards.

Richard Pena
Senior Berthing Officer
Operations, Port Miami

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